



Appian victorious in High Court claim against Sibanye-Stillwater following unlawful termination of US\$1.2 billion transaction

10th October 2024

Appian Capital Advisory LLP ("Appian"), the investment advisor to long-term value-focused private capital funds that invest in companies in metals, mining, and adjacent industries, welcomes today's ruling from the High Court of England and Wales that Sibanye-Stillwater Limited and its subsidiary Sibanye BM Brazil (Pty) Ltd (together, "Sibanye") are liable for damages caused by unlawfully terminating their US\$1.2 billion transaction with Appian to acquire shares in Atlantic Nickel and Mineração Vale Verde in January 2022.

Highlights

- High Court decision vindicates Appian's position that Sibanye breached its contract by terminating its acquisition of Atlantic Nickel and Mineração Vale Verde without any legal basis
- The Judge held that Sibanye is liable to compensate Appian for the losses caused by its unlawful refusal to close the binding US\$1.2 billion deal
- Appian will seek to recover its losses in full, including interest that would have accrued since January 2022
- The quantum of these damages will be determined at trial in November 2025

The judgment was handed down following a five-week trial in the commercial list of the English High Court. The ruling vindicates Appian's claim that Sibanye unlawfully breached two sale and purchase agreements ("SPAs") for its acquisition of the Brazilian mining companies Atlantic Nickel and Mineração Vale Verde.

Sibanye's termination was based on the incorrect assertion that an insignificant and minor geotechnical event ("GE") at Atlantic Nickel's Santa Rita mine in November 2021 constituted a material adverse effect ("MAE") under the terms of the SPAs. The event, which Sibanye had previously assessed as an occurrence "to be anticipated in mature mining operations", had minimal impact on the mine. In 2022, the mine produced 117kdmmt of nickel concentrate representing a 9% year-on-year increase and delivered strong financial growth with EBITDA increasing by 65% year on year. Sibanye improperly relied on the event to avoid its contractual obligations.

In the High Court ruling, Justice Butcher determined that *"the GE was not and would not reasonably have been expected to be material, and none of the bases relied on by the Defendants (Sibanye) demonstrated that it was or would"* and that *"there was no other basis on which the Defendants (Sibanye) were entitled to terminate the SPAs."*

Today's ruling dictates that Sibanye is liable to compensate Appian for all of the damages which resulted from Sibanye's unlawful termination of the US\$1.2 billion transaction. Appian will seek to recover these losses in full, including the significant interest that would have accrued since January 2022. The hearing to deal with the quantum of these damages will be tried in November 2025. If Sibanye cannot pay in full the damages awarded to Appian in the quantum trial, Appian will pursue all enforcement options.

Atlantic Nickel's Santa Rita project is one of a few long-life nickel sulphide mines, with a copper, cobalt and platinum group metals by-product, producing globally. Atlantic Nickel will continue progressing the asset's large underground extension development through the transition from open pit to underground mining. The underground development with higher-grade nickel will increase the production rate and extend the life of the mine to over 20 years.

For further information:

Appian Capital Advisory LLP:

Andrew Todd, Head of Communications: +44 7990416759 / atodd@appiancapitaladvisory.com

+44 (0)20 7004 0951 / info@appiancapitaladvisory.com

FGS Global:

Charles O'Brien, Richard Crowley: +44 (0)20 7251 3801 / AppianCapital-LON@fgsglobal.com

About Appian Capital Advisory LLP

Appian Capital Advisory LLP is the investment advisor to the Appian Natural Resources Funds, which are long-term, value-focused funds that invest in metals, mining, and adjacent industries.

Appian is a leading investment advisor with global experience across South America, North America, Australia and Africa. It has a successful track record of supporting companies in metals, mining, and adjacent industries to achieve their development targets, with a global operating portfolio overseeing nearly 5,000 employees.

Appian has a global team of 85 experienced professionals with presences in London, New York, Hong Kong, Toronto, Vancouver, Lima, Belo Horizonte, Montreal, Dubai, Johannesburg and Perth.

For more information, please visit www.appiancapitaladvisory.com, or find us on LinkedIn, Instagram or Twitter/X.